

REMARKS

Claims 1, 4-14, 22-28, 32-34 and 37-45 are pending. The only rejection is an obviousness-type double patenting rejection. Specifically, all of the pending claims are rejected for obviousness-type double patenting in view of US 6,365,184 (the "184 patent"). The '184 patent is the grandparent of the subject application.

The claimed invention is directed to a tablet formulation. The claims of the '184 patent are directed to a multiple unit tablet.

Submitted concurrently herewith, under separate cover, is a Terminal Disclaimer overcoming the obviousness-type double patenting rejection in connection with the '184 patent. Withdrawal of the rejection is requested.

The parent of the referenced application is US 6,613,354 which issued September 2, 2003 (the "'354 patent") from U.S. Patent Application Serial No. 10/090,882, filed March 4, 2002 (the "'882 application"). In this regard, the Examiner's attention is directed to the Preliminary Amendment, filed March 4, 2002, which provides the cross-referencing information and progeny of the patent family of the subject application. The claims of the parent '354 patent are directed to a capsule formulation.

Although the tablet claims of the subject application were rejected for obviousness-type double patenting in view of the multiple unit table claims of the grandparent '184 patent, they were not rejected on the same grounds in view of the capsule claims of the parent '354 patent. Applicants agree with the Examiner that the claimed tablet formulation of the subject application is patentably distinct and a separate invention vis-à-vis the claimed capsule of the parent '354 patent. Therefore, a Terminal Disclaimer with respect to the capsule claims of the '354 patent is not required. This is consistent with the prosecution history of this family of patents and

applications wherein (1) the capsule formulation of claim 3 of the '882 application was not rejected for obviousness-type type double patenting vis-à-vis the multiple unit formulation claims of the '154 patent and (2) the '354 patent issued without a Terminal Disclaimer with respect to the '154 patent.

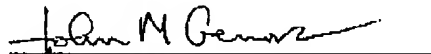
CONCLUSION

Applicants have made a good faith attempt to respond to the Office Action. The pending claims are deemed to be in condition for allowance which action is earnestly solicited.

Any fee due in connection with this communication should be charged to Deposit Account No. 23-1703.

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Respectfully submitted,



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